

CORRESPONDENCE

January 3, 2007

Santa Barbara City Council
Santa Barbara City Hall
735 Anacapa Street
Santa Barbara, CA 93101

RE: Appeal of the Santa Barbara Planning Commission Approval of 40 Pine Drive
Proposed Merger and Subdivision (MST2004-00676) on July 20, 2006

Dear Mayor Blum and Members of the City Council,

I submitted an appeal on July 31, 2006 for the above referenced project. It has become clear now that the Planning Commission was presented with inaccurate and incomplete information at the hearing. The Conditions of Approval for this project are vague with regard to the extent of the private road and hammerhead reconstruction and maintenance, and these conditions do not reflect the specific assumptions and agreements made at the Planning Commission hearing on July 20, 2006.

The applicant and staff may assert that the disagreement is solely between two neighbors, and does not pertain to the project or the neighborhood as a whole. I believe that the information presented here will show that this is not the case.

Since the 1930's, this neighborhood has slowly grown with no comprehensive plan and lax oversight. This hasn't been an issue until recently. The northerly portion of Pine Drive is a 20 foot wide private road owned by residents on either side of the road. Each neighbor owns the 10 foot width of private road directly in front of their property. Each owner also typically has a recorded easement over half the road on their side of the street down the hill, and a prescriptive easement over the rest of the road that they regularly use. This has been the case for many decades. (Please see aerial photos that portray private road, Exhibit A. Note that the superimposed gray lot lines are somewhat skewed.)

David Delisle, the neighbor at 46 Pine Drive, took out a building permit on July 11, 2005 for a chain link fence in the middle of the private road. (Please see Exhibit B.) The neighbors along the private portion of Pine Drive are aware of this, including the applicant, Justin and Michelle Pawl. Obviously, a fence obstructing the private road would adversely impact me, and the neighbors and guests at 41 Pine Drive, 37 Pine Drive, and 38 Pine Drive who regularly use the entire private road. And, it goes without saying, that Mr. Delisle has no legal basis to obstruct the prescriptive easements which have been clearly established for well over 50 years.

I, and my neighbors at both 41 and 38 Pine Drive have had several conversations with the Pawls about road access in the months preceding the Planning Commission hearing on July 20. I also spoke face-to-face with Brent Daniels, who represents the Pawls, on March 7, 2006 regarding this. The applicant and their consultant were clearly aware of the situation.

During the Planning Commission hearing on July 20, Brent Daniels, representing the applicant, stressed how the Pawls had reached an agreement with Mr. Delisle to create a hammerhead turnaround. He stated:

"The Pawls have gained an agreement in principle that the Delisles would give additional land area so that we could then provide for a fullsize hammerhead turnaround, not just for the Pawls or the Delisles, but for the entire neighborhood to benefit from. ... We believe the hammerhead is huge, absolutely huge. I can't say enough for the Pawls for getting this in-play. It's a big deal and I hope you see it that way as well." (Please refer to DVD: Brent Daniels, 20-27 minutes into tape.)

When I heard this at the hearing I believed, as I'm sure others did as well, that the applicant had actually worked with Mr. Delisle to dedicate a fullsize hammerhead. I have attached the City of Santa Barbara's Minimum Hammerhead Turnaround Requirements as Exhibit C. This document indicates the minimum dimension of each of the three legs of the hammerhead "T". What I later learned is that the applicant had worked with Mr. Delisle to widen their driveway, granting Mr. Delisle permission to use their driveway so Mr. Delisle could create another entry to his property in the hope that he could also split his lot. Weeks after the hearing, Mr. Delisle urged staff to disallow the northerly leg of the hammerhead as part of the road maintenance agreement. This is the primary issue of the appeal.

Staff was also under the assumption that a hammerhead would be in place as demonstrated with staff's opening statement that "the applicant has worked with the neighbor at 46 Pine Drive to create a hammerhead turnaround area." (Reference DVD: Kathleen Kennedy, 3 minutes into tape.)

During the hearing I and two other neighbors voiced concern that the entire private road should be included in the road maintenance in order to create a true T-shaped hammerhead turnaround. (Reference DVD: Don Blackwell, 51 minutes into tape; Don Adams, 53 min; Martha Hogan, 57 min.) My measurement was a length of 212 feet that should be repaved and maintained; this measurement was confirmed independently by the applicant (Brent Daniels) in September.

David Delisle and his father, Sam Delisle, both spoke to the Planning Commission hearing on July 20 after concern was raised by neighbors Don Blackwell and Don Adams about whether maintenance would be required for the full 212 feet of private road to create the hammerhead. Sam Delisle stated that "We have worked with the Pawls to dedicate a portion of my son's property to create this hammerhead turnaround. And I think this is the solution that the city is looking for." (Reference DVD, Sam Delisle, 56 min into tape.) Neither David Delisle nor Sam Delisle indicated that they would oppose maintenance of the full hammerhead.

Commissioner Mahan questioned Brent Daniels about this during the hearing, asking him if they plan to pave the full 212 feet to create a T-shaped hammerhead. Mr. Daniels response was "Absolutely." (Reference DVD, Commissioner Mahan & Brent Daniels, 1 hour 3 min into tape.)

The majority of commissioners who voted to approve this project were concerned about the road being maintained in its entirety. (Reference DVD: Mr. Mahan, 1 hour 3 min into tape; Mr. Myers, 1 hour 10 min; Mr. Thompson 1 hour 12 min.) It is extremely doubtful that the Planning Commission would have approved this project if maintenance of the hammerhead turnaround was in question.

The hearing appeared to be quite rushed at the end, with the Commissioners trying to squeeze in review of another project in the half-hour left before the room was no longer available. I believe because of this, agreements and assumptions made during the hearing were not adequately captured in the final resolution (Reference DVD, 1 hour 20-24 min.)

The day after the hearing I telephoned Ms. Jan Hubbell, Senior Planner, and asked if the Conditions of Approval would explicitly capture what was agreed upon during the hearing regarding pavement and maintenance of the entire 20x212 foot private road. At that time, Ms. Hubbell confirmed that these specific verbal agreements made during the hearing would be included in the Conditions of Approval.

In September, Scott Vincent, the city attorney, gave his perspective that it is recognized that neighbors on either side of the 20 foot private road have reciprocal easements over the other's portion of the private road. As such, draft Conditions of Approval stated that the applicant would be required to maintain the portion of the 20' x 212' private road to the north of their driveway if given consent by either neighbor at 43 or 46 Pine Drive. Apparently Mr. Delisle objected to this, and the city has now revised the conditions to be vague.

It has become clear that Mr. Delisle wants this project's private road maintenance conditions to be vague now in order to win approval later for his own lot split. In essence the hammerhead and private road are being used as a bargaining chip by Mr. Delisle. However, Mr. Delisle's cooperation shouldn't be a factor in approval of the Pawls project or approval of the hammerhead and road maintenance because:

- 1) A prescriptive easement has clearly been established over the entire private road by decades of open, notorious, and continued use adverse to the property owner. As such, those with a prescriptive easement have the right to maintain it. This was the argument used for requiring the Pawls, which have a prescriptive easement over a portion of the private road, to maintain the private road as a Condition of Approval for their project.
- 2) Even if the Pawls have not established a prescriptive easement over the entire length of the road, other neighbors clearly have. As I'm sure the city attorney will concur, these neighbors that have a prescriptive easement also have the right to have it maintained.

The Pawls and Delisles have collaborated this year on how to best accomplish lot splits of their respective lots, and I believe the Pawls were likely aware of potential difficulties that the Delisles may try to interject regarding the maintenance of the fullsize hammerhead. As such, this should have been disclosed at the hearing. But regardless of whether the

applicant intentionally or unintentionally provided incomplete information at the hearing, the fact is that the Planning Commission was misled.

Since the city is hesitant to get involved in private property matters, I would therefore like to suggest that either:

- 1) Because the Planning Commission decision was based on faulty information, the City Council deny the project on the grounds that the Public Street Waiver findings cannot be found. (This was also staff's recommendation to the Planning Commission as noted in the July 13, 2006 staff report.) -or-
- 2) The wording of the Conditions of Approval is modified to protect the all parties involved: the applicant, the city, and the neighbors. I suggest that that Conditions of Approval are modified to accommodate the city's hesitation to get involved in private property matters, while still capturing the intent of the Planning Commission and the rights of the neighbors. One option would be to clearly indicate the extent of the private road to be maintained -- that is the 20 feet by 212 feet to the north of the public Pine Drive -- and require the applicant to maintain that portion of the road for which they have a recorded or prescriptive easement, and to also maintain other portions of this private road if given consent by the property owner or given consent by one with evidence of a prescriptive easement or recorded easement.

My intent with this letter is to state the facts as they have transpired, while also being fair to the applicant and the other neighbors. Because the applicant's project will result in awkward lot shapes, and will compound traffic and parking concerns, I don't agree that the applicant's project is necessarily is the best thing for the neighborhood; however, I do see the benefit in maintenance of the private road. My concern today is that we insist that the road that was promised to be paved and maintained actually is paved and maintained.

I have lived in the Pine Drive neighborhood for 13 years, and many of my neighbors have lived here for decades. We intend to make this neighborhood our home for years to come, and want to preserve its quality. The issue of turnaround, access and parking on Pine Drive is not a problem solely between me and one other neighbor as the applicant may lead you to believe. Many other neighbors have written letters to express their concern about the haphazard statements and assumptions that were made when determining the future of our neighborhood. I, and many other long-time neighbors, ask that statements made at the hearing are actually honored.

Best regards,


Martha Hogan

Nina Bodnar
37 Pine Drive
Santa Barbara, CA 93105

January 2, 2007

Mayor Blum and the City Council
P. O. Box 1990
Santa Barbara, CA 93102-1990

Subject: 40 Pine Drive Project. MST2004-00676

Dear Mayor Blum and Members of the City Council:

This letter is in support of the appeal for the 40 Pine Drive lot split. At the July 20 Planning Commission hearing, the city staff and applicant stated that the private road would be repaved and maintained and that a standard size hammerhead would be created as a condition for the lot split. The details of this were discussed by the applicant, staff, commissioners, and neighbors at the hearing, and it was agreed that the entire private road, up to the top of the hill, would be repaved and maintained by the applicant. The commissioners who voted in favor of the project did so under the assumption that these conditions would be in place.

It has come to my attention now that the conditions of approval for this project are vague regarding the extent of private road maintenance.

From a neighborhood standpoint, it's important that an adequate roadway is in place. My guests, service and delivery trucks, and neighbors living on the northerly portion of the private road regularly use the entire private road for access and turnaround--a prescriptive easement has clearly been established by continued use over the years. The residents who have established a prescriptive easement also have the right to have that easement maintained.

I urge you to insist that the conditions of approval as promised are honored.

Sincerely,

A handwritten signature in dark ink, appearing to read "Nina Bodnar", with a stylized, flowing script.

Nina Bodnar
37 Pine Drive
Santa Barbara, CA 93105

1/2/2007

Mayor Blum and the Santa Barbara City Council
c/o City Clerk's Office
P.O. Box 1990
Santa Barbara, CA 93102-1990

Re: 40 Pine Drive Lot Split (MST2004-00676)

Dear Mayor Blum and City Council:

My letter is in support of the appeal of the Planning Commission approval of the lot split at 40 Pine Drive.

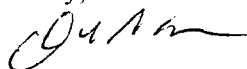
I oppose the project because promises from the owners of 40 Pine Drive and their consultant to their neighbors and the Planning Commission to create a hammerhead turn around and pave the entire private portion of Pine Drive are not acknowledged in the formal documentation, as it currently exists.

Commissioner Mahan, at the July 20th Planning Commission meeting, asked Brent Daniels, the applicants consultant, "Are you planning to pave up to the end so we have a T-Shaped hammerhead?" Brent Daniels replied, "Our full intent was always to pave up to the northerly line." To be more specific, Commissioner Mahan then asked Brent Daniels, "The 212 feet?" and Brent replied, "Absolutely." Commissioner Mahan closed his line of questioning by stating, "I think the addition of the hammerhead is very important."

I, too, feel that the hammerhead is very important. The lot split will set a precedent in our neighborhood allowing for more development leading to more traffic on a road that is inadequate for the current traffic and does not provide a turn around. The transcript of the July 20th Planning Commission meeting leaves little doubt that, without the hammerhead turn around and the agreement to pave the entirety of the private portion of Pine Drive, the Planning Commission would not have supported this project.

The document as it now stands no longer mentions a hammerhead turn around. The document does not state that the road will be paved in its entirety. All I am asking is that the promises made to the neighbors of 40 Pine Drive and to the Planning Commission be reflected in the project plans. Please uphold the appeal and thank you for your consideration.

Sincerely,



Donald P. Adams
43 Pine Drive
Santa Barbara, CA 93105

Donald L Blackwill
2419 Pine Drive
Santa Barbara, CA 93105

December 11, 2006

Mayor and City Council
City of Santa Barbara
P.O. Box 1990
Santa Barbara, CA 93102-1990

Re: 40 Pine Drive (MST2004-00676)

Dear Mayor and City Council:

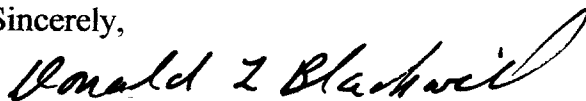
This letter is in support of the appeal of the Planning Commission approval of the lot split/project proposed for 40 Pine Drive.

I continue to oppose the project based on the very limited access to the lot. The project as currently proposed fails to provide an adequate turnaround area at the top of the private portion of Pine Drive. The provision of a functional turnaround at the end of the existing portion of Pine Drive is critical if the number of residences being served by that section of road is to be increased.

The access to the existing lots is very unusual and sometimes poorly defined. This is partly the result of historical accident, which included inadequate oversight by planning agencies in the past, and partly it is due to the slope upon which the neighborhood is situated. Creating addition traffic, parking and access challenges by approval of this lot split, especially in the absence of an adequate turnaround at the top to Pine, is just not good planning.

Thank you for your attention.

Sincerely,

A handwritten signature in black ink that reads "Donald L Blackwill". The signature is written in a cursive style with a large, sweeping "D" and a long, horizontal flourish at the end.

Donald L Blackwill

January 1, 2007

Mayor Blum and the City Council
P. O. Box 1990
Santa Barbara, CA 93102-1990

Re: 40 Pine Drive lot split (MST2004-00676)

Dear Mayor Blum and Members of the City Council:

This letter is in support of the appeal of the Planning Commission approval for the 40 Pine Drive lot split.

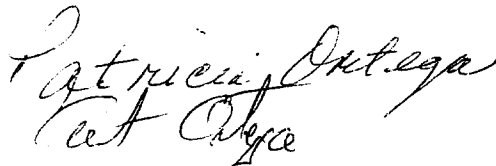
We oppose this project which will result in irregular lots with limited parking and substandard access. Also, the conditions for this project fail to explicitly describe the extent of private road paving and maintenance, which was a major factor in the Planning Commission's decision to approve the project.

At the July 20 hearing, the city staff and applicant stressed that the private road would be repaved and maintained and that a standard size hammerhead would be created. Specifics of this provision were discussed by the applicant, city staff, and planning commission at the hearing, and it was agreed at that time that the entire private road (20 feet wide x 212 feet long) would be repaved and maintained by the applicant in order to create a standard size hammerhead turnaround.

Approval of this project will undoubtedly result in more fragmented development in our neighborhood. Issues related to traffic, parking, turnaround and road access in our neighborhood have been compounded by inadequate oversight and piecemeal planning over the past decades. With this in mind, I encourage you to uphold this appeal.

Thank you for your attention.

Sincerely,

A handwritten signature in cursive script, appearing to read "Patricia Ortega".

Art & Pat Ortega
2425 Pine Drive
Santa Barbara, CA 93105

January 2, 2007

Santa Barbara City Council
c/o City Clerk's Office
P. O. Box 1990
Santa Barbara, CA 93102-1990

RE: Appeal on Conditions for 40 Pine Drive lot split (MST2004-00676)

Dear Mayor Blum and City Council:

I wrote previously in support of the proposed lot split at 40 Pine Drive. It was my understanding at that time that a new hammerhead turnaround would be created and the entire private portion of Pine Drive (up to the three mailboxes at the top of the hill) would be re-paved and maintained. This provision was discussed and agreed upon at the hearing on July 20 by the planning commission and applicant. I understand now that the conditions of approval are vague regarding the extent of the full hammerhead and road maintenance.

The hammerhead and maintenance of the entire private road were critical factors in the decision to approve this lot split. I have lived on Pine Drive for 49 years, during which time there has always been a private road that extends to the top of the hill. There is no doubt that access rights have been established by continued open and notorious use of the road over these years. I urge you to require specific language regarding maintenance of the entire private road in the conditions of approval.

Thank you.

Sincerely,

Mike M. Acosta

Michael Acosta
27 Pine Drive
Santa Barbara, CA 93105

January 1, 2007

The Mayor and the City Council
c/o City Clerk's Office
P. O. Box 1990
Santa Barbara, CA 93102-1990

Re: 40 Pine Drive lot split (MST2004-00676)

Dear Mayor Blum and City Council:

This letter is in support of the appeal of the Planning Commission approval for the 40 Pine Drive lot split.

We continue to oppose this project. The project will result in irregular, unusual lots with limited parking and poor access. The conditions for this project, as defined today, fail to explicitly describe the extent of private road paving and maintenance, which was a major factor in the decision to approve this lot split.

At the July 20 hearing, the city staff and applicant stressed that the private road would be repaved and maintained and that a standard size hammerhead would be created. Specifics of this provision were discussed by the applicant, city staff, and planning commission at the hearing, and it was agreed at that time that the entire private road (20 feet wide x 212 feet long) would be repaved and maintained by the applicant in order to create a standard size hammerhead turnaround.

Issues related to parking, turnaround and private road access have been compounded by inadequate oversight and erratic planning by agencies in the past. We can't continue with this. With this in mind, I urge you to uphold this appeal.

Thank you for your attention.

Sincerely,

Carmen & Mike Finn
2420 Pine Drive
Santa Barbara, CA 93105

Mr. and Mrs. Michael V. Finn